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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: CONSUMERS' ASSOCIATION)	CASE NO.: 5:23-mc-80322 (EJD)
LITIGATION)	(Consolidated)
)	
)	STIPULATION AND PROPOSED ORDER
)	EXTENDING DEADLINE TO MOVE TO
)	QUASH OR RESPOND TO SUBPOENAS
)	
)	
)	
)	

Pursuant to Local Civil Rules 6-2 and 7-12, applicants Consumers' Association ("Which") and Qualcomm Incorporated ("Qualcomm") and respondents Apple Inc. ("Apple"), Samsung Semiconductor, Inc. ("SSI"), and Samsung, Electronics America, Inc. ("SEA," and together with SSI, the "Samsung Entities") hereby stipulate as follows:

WHEREAS, on December 7, 2023, Which commenced the above-captioned miscellaneous proceeding (the "Which 1782 Proceeding") seeking discovery pursuant to 28 U.S.C. § 1782 ("Section 1782") from Apple, as well as the Samsung Entities, in connection with a lawsuit (the "U.K. Action") that Which commenced against Qualcomm before the Competition Appeal Tribunal of the United Kingdom, *see* Dkt. No. 1;¹

¹ References to a "Dkt. No." refer to the ECF numbers in the above-captioned, consolidated

1 WHEREAS, on January 23, 2024, the Court entered an *ex parte* order in the Which 1782
 2 Proceeding authorizing Which to serve subpoenas on Apple and the Samsung Entities, without
 3 prejudice to any argument that may be raised in a motion to quash, and requiring Apple and the
 4 Samsung Entities to file any such motion within 30 days of service or notice of the subpoenas and
 5 this Court's January 23, 2024 order, *see* Dkt. No. 21 at 7;

6 WHEREAS on January 25, 2024, Apple received a copy of Which's subpoena and this
 7 Court's January 23, 2024 order;

8 WHEREAS, on January 29, 2024, SSI received, but was not served with, a copy of Which's
 9 subpoena and SEA was served with Which's subpoena on February 2, 2024;

10 WHEREAS SSI served written objections to Which's aforementioned subpoena on
 11 February 12, 2024, and SEA served written objections to Which's aforementioned subpoena on
 12 February 13, 2024;

13 WHEREAS, on February 23, 2024, Which served SSI with Which's subpoena, and also
 14 re-served SEA with Which's subpoena;

15 WHEREAS SSI and SEA served amended written objections and responses to Which's
 16 subpoenas on March 8, 2024;

17 WHEREAS, on January 26, 2024, Qualcomm commenced a separate miscellaneous
 18 proceeding captioned *In re Ex Parte Application of: Qualcomm Incorporated*, No. 5:24-mc-80019
 19 (N.D. Cal) (the "Qualcomm 1782 Proceeding" and, with the Which 1782 Proceeding, the "1782
 20 Proceedings") seeking discovery pursuant to Section 1782 from Apple and the Samsung Entities
 21 in connection with the U.K. Action, *see* Qualcomm Dkt. No. 1;

22 WHEREAS, on February 7, 2024, the Court entered an order relating the 1782 Proceedings
 23 pursuant to Local Civil Rules 3-12 and 7-11, *see* Dkt. No. 24; Qualcomm Dkt. No. 13;

24 WHEREAS, on February 9, 2024, this Court entered an *ex parte* order in the Qualcomm
 25 1782 Proceeding authorizing Qualcomm to serve subpoenas on Apple and the Samsung Entities,

26 _____
 27 Which 1782 Proceeding. References to a "Qualcomm Dkt. No." refer to the ECF numbers in the
 28 Qualcomm 1782 Proceeding, as defined herein.

1 without prejudice to any argument that may be raised in a motion to quash, and requiring Apple
2 and the Samsung Entities to file any such motion within 30 days of service or notice of the
3 subpoena and this Court's February 9, 2024 order, *see* Qualcomm Dkt. No. 14 at 6;

4 WHEREAS, on February 15, 2024, Qualcomm served a subpoena and a copy of this
5 Court's February 9, 2024 order on Apple;

6 WHEREAS, on February 16, 2024, Qualcomm served subpoenas on SSI and SEA, along
7 with a copy of this Court's February 9, 2024 order;

8 WHEREAS SSI and SEA served written objections to Qualcomm's subpoenas on March
9 1, 2024;

10 WHEREAS, on February 16, 2024, this Court entered a stipulated order in each of the 1782
11 Proceedings setting April 3, 2024 as the deadline for the Samsung Entities to move to quash the
12 subpoenas that Which and Qualcomm were authorized to serve on them, *see* Dkt. No. 30;
13 Qualcomm Dkt. No. 18;

14 WHEREAS, on February 21, 2024, this Court entered an order in each of the 1782
15 Proceedings granting Apple's motion to stay the deadline for Apple to respond to the subpoena
16 that Which delivered to Apple, and ordering that Apple "need not move to quash, respond to or
17 comply with" that subpoena "until April 3, 2024," *see* Dkt. No. 32; Qualcomm Dkt. No. 20;

18 WHEREAS, on March 15, 2024, this Court entered a stipulated order in the Qualcomm
19 1782 Proceeding setting April 3, 2024 as the deadline for Apple to move to quash or respond to
20 the subpoena that Qualcomm served on Apple, *see* Qualcomm Dkt. No. 22;

21 WHEREAS, on March 28, 2024, this Court consolidated the 1782 Proceedings pursuant to
22 Rule 42(a) of the Federal Rules of Civil Procedure, and ordered that all papers to be filed in the
23 consolidated actions shall be filed in the above captioned-miscellaneous proceeding;

24 WHEREAS, on April 1, 2024, this Court entered a stipulated order in the consolidated
25 1782 Proceedings setting April 24, 2024 as the deadline for Apple and the Samsung Entities to
26 move to quash or respond to the subpoenas served on them by Which and Qualcomm, *see* Dkt.
27 No. 38;

1 WHEREAS, on April 19, 2024, this Court entered a stipulated order in the consolidated
2 1782 Proceedings setting May 15, 2024 as the deadline for Apple and the Samsung Entities to
3 move to quash or respond to the subpoenas served on them by Which and Qualcomm, *see* Dkt.
4 No. 40;

5 WHEREAS, on May 13, 2024, this Court entered a stipulated order in the consolidated
6 1782 Proceedings setting June 5, 2024 as the deadline for Apple and the Samsung Entities to move
7 to quash or respond to the subpoenas served on them by Which and Qualcomm, *see* Dkt. No. 42;

8 WHEREAS, on June 5, 2024, this Court entered a stipulated order in the consolidated 1782
9 Proceedings setting June 20, 2024 as the deadline for Apple and the Samsung Entities to move to
10 quash or respond to the subpoenas served on them by Which and Qualcomm, *see* Dkt. No. 45;

11 WHEREAS, on June 20, 2024, this Court entered a stipulated order in the consolidated
12 1782 Proceedings setting July 5, 2024 as the deadline for Apple and the Samsung Entities to move
13 to quash or respond to the subpoenas served on them by Which and Qualcomm, *see* Dkt. No. 47;

14 WHEREAS, since June 20, 2024, Which, Qualcomm, Apple and the Samsung Entities
15 have continued to meet and confer in good faith;

16 WHEREAS, on June 27, 2024, Which agreed to Apple's request to extend the deadline to
17 move to quash or respond to Which's subpoena, so as to continue exploring whether a compromise
18 can be reached that would obviate the need for a motion to quash, and Qualcomm and the Samsung
19 Entities also agreed that such extension would help all parties to continue exploring whether such
20 a compromise can be reached; and

21 WHEREAS, Which, Qualcomm, Apple, and the Samsung Entities wish to set August 5,
22 2024 as the deadline for Apple and the Samsung Entities to move to quash or respond to Which's
23 and Qualcomm's subpoenas, thereby aligning all parties' motion-to-quash deadlines in the 1782
24 Proceedings and thereby allowing an opportunity for efficient briefing of any motions to quash.

25 NOW THEREFORE, WHICH, QUALCOMM, APPLE, AND THE SAMSUNG
26 ENTITIES HEREBY STIPULATE, subject to the approval of this Court, that July 19, 2024 is the
27 deadline for Apple and the Samsung Entities to move to quash or respond to the subpoenas that
28

Which and Qualcomm served on Apple and the Samsung Entities in connection with the 1782 Proceedings. The timing and procedures set forth in Federal Rule of Civil Procedure 45 shall otherwise apply.^{2, 3}

DATED: July 5, 2024

Respectfully submitted

/s/ James R. Sigel

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² To clarify Which's position in an ongoing dispute between Which and the Samsung Entities, Which does not hold the view that the Court's deadline for the motion to quash is obviated by any non-party serving objections to the subpoena. The parties may seek a clarification from the Court, if necessary.

³ The Samsung Entities do not understand the Court's orders or the parties' stipulations (which specifically include the phrase "[t]he timing and procedures set forth in Federal Rule of Civil Procedure 45 shall otherwise apply") to require a motion to quash in order to preserve objections if a subpoena recipient timely served written objections under Rule 45, and view these stipulations as merely preserving the option of filing a motion to quash.

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ATTESTATION PURSUANT TO LOCAL CIVIL RULE 5-1(i)(3)

Pursuant to Local Civil Rule 5-1(i)(3), I certify under penalty of perjury that concurrence in the filing of this document has been obtained from the signatories above.


/s/ James R. Sigel

JAMES R. SIGEL

~~PROPOSED~~ STIPULATED ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that the deadline for Apple and the Samsung Entities to move to quash or respond to the subpoenas served on them by Which and Qualcomm shall be extended to August 5, 2024. The timing and procedures set forth in Federal Rule of Civil Procedure 45 shall otherwise apply.

Date: July 8, 2024



HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE